

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES,)	
)	
v.)	Docket No. 15-cr-10153-DPW
)	
DAVID DAOUD WRIGHT,)	
Defendant)	
)	

**DEFENDANT DAVID WRIGHT'S MEMORANDUM REGARDING THE
SCOPE OF RESENTENCING**

The Defendant submits this memorandum in response to the Court's order of March 10 directing the parties to brief their position on the parameters of the re-sentencing.¹ As a general proposition, the defendant agrees with the Court that, given the First Circuit's order vacating the sentence, that the proceedings are effectively de novo. The Defendant's position is that the Court starts from scratch, recalculating the Guidelines and then applying the 18 U.S.C. § 3553 factors to arrive at the appropriate result, bearing in mind that the conviction on Count 1 has been vacated.

The only limitation on the Court's discretion is imposed by *North Carolina v. Pearce*, 395 U.S. 711, 726 (1969), where the Supreme Court held that "whenever a judge imposes a more severe sentence upon a defendant after a new trial, the reasons for his doing so must affirmatively appear [and]...be based upon objective information concerning identifiable conduct on the part of the defendant occurring

¹ Although the sentencing is currently set for April 28, the parties assume that it will be postponed due to the court's standing order on non-emergency matters. The parties request a June or July date. The Government is not available on the following days in June: 5, 8, 18-19, 24, 29-30. In July, the government is not available July 1-9.

after the time of the original sentencing proceeding.” *Id.* Though there will not be a new trial in this case, the same principles ought to apply to a re-sentencing.

Respectfully Submitted
DAVID WRIGHT
By his attorney,

/s/ Michael Tumposky
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CERTIFICATE OF SERVICE

I, Michael Tumposky, hereby certify that on April 1, 2020, I have served a copy of this document, through the electronic filing system, on all counsel of record.

/s/ Michael Tumposky
Michael Tumposky